

cert. denied, 467 U.S. 1208 (1984).¹ **Objections to the magistrate judge's report and recommendation were filed on August 18, 2006.**

A de novo review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. Accordingly, the magistrate judge's report and recommendation is **affirmed**, the petitioner's motion to dismiss is **denied**, the respondent's motion for summary judgment is **granted**, and this case is **dismissed** with prejudice.

AND IT IS SO ORDERED.



David C. Norton
United States District Judge

Charleston, South Carolina
August 22, 2006

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure

¹In Wright v. Collins, 766 F.2d 841 (4th Cir. 1985), the court held "that a pro se litigant must receive fair notification of the consequences of failure to object to a magistrate judge's report before such a procedural default will result in waiver of the right to appeal. The notice must be 'sufficiently understandable to one in appellant's circumstances fairly to appraise him of what is required.'" Id. at 846. Plaintiff was advised in a clear manner that his objections had to be filed within ten (10) days, and he received notice of the consequences at the appellate level of his failure to object to the magistrate judge's report.